

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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MICHAEL D. BRYANT,

Plaintiff,

v.

NORTHERN NEVADA CORRECTION
CENTER CULINARY, *et al.*,

Defendants.

Case No. 3:20-cv-00187-MMD-WGC

ORDER

Plaintiff Michael D. Bryant, an incarcerated individual, initiated this action as a *pro se* civil rights complaint pursuant to 42 U.S.C. § 1983. (ECF No. 1-1.) The Court dismissed the action without prejudice based on Plaintiff's failure to timely file an application to proceed *in forma pauperis* or pay the filing fee. (ECF No. 4.) Plaintiff subsequently filed an application to proceed *in forma pauperis* (ECF No. 6), which the Court denied as moot because the case was already closed. (ECF No. 8.) In the Court's order denying the motion to proceed *in forma pauperis*, the Court explained that Plaintiff's case had been dismissed without prejudice and that Plaintiff could pursue his claims in a new case by filing a complaint and an application to proceed *in forma pauperis* in a new action. (*Id.*)

Plaintiff has now filed a new complaint and refiled his previous complaint and application to proceed *in forma pauperis* in this case. (ECF Nos. 9, 9-1, 9-2.) It appears that Plaintiff intended to initiate a new action, but he included this action's case number with his new complaint.¹ As a result, Plaintiff's documents were filed in this case, rather

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¹Plaintiff did not request that the Court set aside its judgment or provide any explanation for his failure to timely file his application to proceed *in forma pauperis*. Even if the Court could liberally construe Plaintiff's filings to constitute a motion to relieve him from the Court's final judgment due to excusable neglect, without any explanation for the delay Plaintiff does not meet the *Pioneer* factors. See *Pioneer Invs. Servs. Co. v.*

1 than initiating a new action. The Court reiterates that this case is closed. Plaintiff may
2 pursue his claims in a new action by filing a complaint and an application to proceed *in*
3 *forma pauperis* in a new action. If Plaintiff wishes to initiate a new action, he should not
4 include the case number from this case with his new complaint or his application to
5 proceed *in forma pauperis*.

6 For the foregoing reasons, it is ordered that Plaintiff's application to proceed *in*
7 *forma pauperis* (ECF No. 9-2) is denied as moot.

8 It is further ordered that the Clerk of the Court send Plaintiff the approved form for
9 filing a § 1983 complaint, instructions for the same, and a copy of his original and newly
10 filed complaints (ECF Nos. 1-1, 9). The Clerk will also send Plaintiff the approved form
11 application to proceed *in forma pauperis* by an inmate, the document entitled information
12 and instructions for filing an *in forma pauperis* application, and a copy of his motion to
13 proceed *in forma pauperis* (ECF No. 6).

14 DATED THIS 24th day of July 2020.

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17 MIRANDA M. DU
18 CHIEF UNITED STATES DISTRICT JUDGE
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Brunswick Assocs. Ltd. P'ship, 507 U.S. 380, 395 (1993) (outlining the four-factor test for determining excusable neglect).